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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/381,526	04/12/2000	MARCEL AESCHLIMANN	41-303-3	4076

7609 7590 05/06/2002

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EXAMINER

GALLAGHER, JOHN J

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 05/06/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/381526

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 01 FEBRUARY 2002
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 23-47 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 23-35 is/are allowed.
- ☒ Claim(s) 36-47 is/are rejected.
- ☒ Claim(s) 47 is/are ^{ASO} objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. Before proceeding further, applicants should note that the terms "UV radiation/" in line 7 of paragraph 6 of the last Office action should read (and have read) "ultrasonic"; Examiner error (sloppy proofreading on his part) - mea culpa.

2. Claim 47 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Specifically, this claim is held NOT to further limit or define the STRUCTURE per se of the joining element as set forth in claim 36, but rather merely to recite an envisioned intended use or application for this element.

3. Claims 36-47 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically (a) it is noted that independent claims 36-37 do not limit themselves to the structure and definition of the joining element itself (as set forth in the respective preambles), but rather also recite further (i.e. base) structure, such that the claims as presented are seen to be improper hybrids; and (b) claim 46 line 2 - insert "is" after "material".

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 36-38, 40 and 44-47 are rejected under 35 U.S.C. § 102(b) as being (clearly) anticipated by any one of Eakins or Luth or the Japanese Hirakawa reference, all already of record (see paragraph 4 of the last Office action). All of the essential structural and constructional limitations of these claims are seen to be satisfied by any of these references, each of which is held to fairly document headed, heat activatable (i.e. plasticizable thermoplastic) joining elements (i.e. rivets) as envisioned and claimed by applicants. Further along this line (a) again note paragraph 3, above; and (b) applicants fail to indicate (N.B. page 5 lines 25-26 of the amendment) just how these claimed joining elements differ (i.e. patentably) from those disclosed in these three applied references.

6. In spite of the foregoing rejections, the Examiner feels that there is patentable subject matter present in this application at this point in the prosecution, as follows: (a) Method claims 23-35 appear to be allowable; and (b) the subject

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matter of article claims 37-39 and 41-43, as well as that illustrated in applicants' drawing Figure 2, appears to be patentable also, all of the foregoing with the (1) caveat that yet another updated search may uncover art more pertinent than that already of record; and (2) proviso that the matters as set forth in paragraphs 2-3, above, are satisfactorily resolved.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. J. Gallagher whose telephone number is (703) 308-1971. The examiner can normally be reached on M-F from approximately 8:30 A.M. to 5 P.M. The examiner can also be reached on alternate N/A.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball, can be reached on (703) 308-2058. The fax phone number for this Group is (703) ⁸⁷²⁻⁹³¹⁰ ~~305-3599~~.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661/0662.


JJGallagher:cdc

April 23, 2002


JOHN J. GALLAGHER
PRIMARY EXAMINER
ART UNIT 131 / 733